



Rep. Robert W. Pritchard

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1 AMENDMENT TO HOUSE BILL 3122

2 AMENDMENT NO. _____. Amend House Bill 3122 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Veterans Preference in Private Employment Act.

6 Section 5. Purpose. The General Assembly intends to
7 establish a permissive preference in private employment for
8 certain veterans.

9 Section 10. Definitions. As used in this Act:

10 "Armed forces of the United States" means the United States
11 Army, Marine Corps, Navy, Air Force, and Coast Guard, or the
12 reserve component of any of those, and includes the Illinois
13 National Guard.

14 "Private employer" means any non-public sole proprietor,
15 corporation, partnership, limited liability company, or other

1 private, non-public entity employing one or more employees
2 within Illinois.

3 "Veteran" means an individual who meets one or more of the
4 following:

5 (1) has served on active duty with the armed forces of
6 the United States for a period of more than 180 days and
7 was discharged or released from active duty under
8 conditions other than dishonorable;

9 (2) was discharged or released from active duty with
10 the armed forces of the United States because of a
11 service-connected disability; or

12 (3) is a member of the Illinois National Guard who has
13 never been deployed but separated under conditions other
14 than dishonorable as noted on the individual's NGB-22
15 discharge form.

16 "Veterans' preference employment policy" means a private
17 employer's voluntary preference for hiring, promoting, or
18 retaining a veteran over another equally qualified applicant or
19 employee.

20 Section 15. Veterans' preference employment policy. A
21 private employer may adopt and apply a voluntary veterans'
22 preference employment policy if:

23 (1) the veterans' preference employment policy is in
24 writing;

25 (2) the veterans' preference employment policy is

1 publicly posted by the private employer at the place of
2 employment or on any website maintained by the private
3 employer;

4 (3) the private employer's job application informs all
5 applicants of the veterans' preference employment policy
6 and where the policy may be obtained; and

7 (4) the private employer applies the veterans'
8 preference employment policy uniformly for all employment
9 decisions regarding the hiring or promotion of veterans or
10 the retention of veterans during a reduction in force.

11 Section 20. Verification of eligibility. A private
12 employer who maintains a veterans' preference employment
13 policy pursuant to Section 15 of this Act may require and rely
14 on an applicant's or employee's Department of Defense
15 DD214/DD215 forms or their predecessor or successor forms, an
16 applicant's or employee's NGB-22 discharge form or its
17 predecessor or successor forms (if a member of the National
18 Guard), and a U.S. Department of Veterans Affairs award letter
19 (if the applicant or employee is claiming a service-connected
20 disability) to establish eligibility for such policy.

21 Section 25. The Illinois Human Rights Act is amended by
22 changing Section 2-104 as follows:

23 (775 ILCS 5/2-104) (from Ch. 68, par. 2-104)

1 Sec. 2-104. Exemptions.

2 (A) Nothing contained in this Act shall prohibit an
3 employer, employment agency or labor organization from:

4 (1) Bona Fide Qualification. Hiring or selecting
5 between persons for bona fide occupational qualifications
6 or any reason except those civil-rights violations
7 specifically identified in this Article.

8 (2) Veterans. Giving preferential treatment to
9 veterans and their relatives as required by the laws or
10 regulations of the United States or this State or a unit of
11 local government, or pursuant to a private employer's
12 voluntary veterans' preference employment policy
13 authorized by the Veterans Preference in Private
14 Employment Act.

15 (3) Unfavorable Discharge From Military Service. Using
16 unfavorable discharge from military service as a valid
17 employment criterion when authorized by federal law or
18 regulation or when a position of employment involves the
19 exercise of fiduciary responsibilities as defined by rules
20 and regulations which the Department shall adopt.

21 (4) Ability Tests. Giving or acting upon the results of
22 any professionally developed ability test provided that
23 such test, its administration, or action upon the results,
24 is not used as a subterfuge for or does not have the effect
25 of unlawful discrimination.

26 (5) Merit and Retirement Systems.

1 (a) Applying different standards of compensation,
2 or different terms, conditions or privileges of
3 employment pursuant to a merit or retirement system
4 provided that such system or its administration is not
5 used as a subterfuge for or does not have the effect of
6 unlawful discrimination.

7 (b) Effecting compulsory retirement of any
8 employee who has attained 65 years of age and who, for
9 the 2-year period immediately preceding retirement, is
10 employed in a bona fide executive or a high
11 policymaking position, if such employee is entitled to
12 an immediate nonforfeitable annual retirement benefit
13 from a pension, profit-sharing, savings, or deferred
14 compensation plan, or any combination of such plans of
15 the employer of such employee, which equals, in the
16 aggregate, at least \$44,000. If any such retirement
17 benefit is in a form other than a straight life annuity
18 (with no ancillary benefits) or if the employees
19 contribute to any such plan or make rollover
20 contributions, the retirement benefit shall be
21 adjusted in accordance with regulations prescribed by
22 the Department, so that the benefit is the equivalent
23 of a straight life annuity (with no ancillary benefits)
24 under a plan to which employees do not contribute and
25 under which no rollover contributions are made.

26 (c) Until January 1, 1994, effecting compulsory

1 retirement of any employee who has attained 70 years of
2 age, and who is serving under a contract of unlimited
3 tenure (or similar arrangement providing for unlimited
4 tenure) at an institution of higher education as
5 defined by Section 1201(a) of the Higher Education Act
6 of 1965.

7 (6) Training and Apprenticeship programs. Establishing
8 an educational requirement as a prerequisite to selection
9 for a training or apprenticeship program, provided such
10 requirement does not operate to discriminate on the basis
11 of any prohibited classification except age.

12 (7) Police and Firefighter/Paramedic Retirement.
13 Imposing a mandatory retirement age for
14 firefighters/paramedics or law enforcement officers and
15 discharging or retiring such individuals pursuant to the
16 mandatory retirement age if such action is taken pursuant
17 to a bona fide retirement plan provided that the law
18 enforcement officer or firefighter/paramedic has attained:

19 (a) the age of retirement in effect under
20 applicable State or local law on March 3, 1983; or

21 (b) if the applicable State or local law was
22 enacted after the date of enactment of the federal Age
23 Discrimination in Employment Act Amendments of 1996
24 (P.L. 104-208), the age of retirement in effect on the
25 date of such discharge under such law.

26 This paragraph (7) shall not apply with respect to any

1 cause of action arising under the Illinois Human Rights Act
2 as in effect prior to the effective date of this amendatory
3 Act of 1997.

4 (8) Police and Firefighter/Paramedic Appointment.
5 Failing or refusing to hire any individual because of such
6 individual's age if such action is taken with respect to
7 the employment of an individual as a firefighter/paramedic
8 or as a law enforcement officer and the individual has
9 attained:

10 (a) the age of hiring or appointment in effect
11 under applicable State or local law on March 3, 1983;
12 or

13 (b) the age of hiring in effect on the date of such
14 failure or refusal to hire under applicable State or
15 local law enacted after the date of enactment of the
16 federal Age Discrimination in Employment Act
17 Amendments of 1996 (P.L. 104-208).

18 As used in paragraph (7) or (8):

19 "Firefighter/paramedic" means an employee, the duties
20 of whose position are primarily to perform work directly
21 connected with the control and extinguishment of fires or
22 the maintenance and use of firefighting apparatus and
23 equipment, or to provide emergency medical services,
24 including an employee engaged in this activity who is
25 transferred to a supervisory or administrative position.

26 "Law enforcement officer" means an employee, the

1 duties of whose position are primarily the investigation,
2 apprehension, or detention of individuals suspected or
3 convicted of criminal offenses, including an employee
4 engaged in this activity who is transferred to a
5 supervisory or administrative position.

6 (9) Citizenship Status. Making legitimate distinctions
7 based on citizenship status if specifically authorized or
8 required by State or federal law.

9 (B) With respect to any employee who is subject to a
10 collective bargaining agreement:

11 (a) which is in effect on June 30, 1986,

12 (b) which terminates after January 1, 1987,

13 (c) any provision of which was entered into by a labor
14 organization as defined by Section 6(d)(4) of the Fair
15 Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and

16 (d) which contains any provision that would be
17 superseded by this amendatory Act of 1987 (Public Act
18 85-748),

19 such amendatory Act of 1987 shall not apply until the
20 termination of such collective bargaining agreement or January
21 1, 1990, whichever occurs first.

22 (C)(1) For purposes of this Act, the term "disability"
23 shall not include any employee or applicant who is currently
24 engaging in the illegal use of drugs, when an employer acts on
25 the basis of such use.

26 (2) Paragraph (1) shall not apply where an employee or

1 applicant for employment:

2 (a) has successfully completed a supervised drug
3 rehabilitation program and is no longer engaging in the
4 illegal use of drugs, or has otherwise been rehabilitated
5 successfully and is no longer engaging in such use;

6 (b) is participating in a supervised rehabilitation
7 program and is no longer engaging in such use; or

8 (c) is erroneously regarded as engaging in such use,
9 but is not engaging in such use.

10 It shall not be a violation of this Act for an employer to
11 adopt or administer reasonable policies or procedures,
12 including but not limited to drug testing, designed to ensure
13 that an individual described in subparagraph (a) or (b) is no
14 longer engaging in the illegal use of drugs.

15 (3) An employer:

16 (a) may prohibit the illegal use of drugs and the use
17 of alcohol at the workplace by all employees;

18 (b) may require that employees shall not be under the
19 influence of alcohol or be engaging in the illegal use of
20 drugs at the workplace;

21 (c) may require that employees behave in conformance
22 with the requirements established under the federal
23 Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.) and
24 the Drug Free Workplace Act;

25 (d) may hold an employee who engages in the illegal use
26 of drugs or who is an alcoholic to the same qualification

1 standards for employment or job performance and behavior
2 that such employer holds other employees, even if any
3 unsatisfactory performance or behavior is related to the
4 drug use or alcoholism of such employee; and

5 (e) may, with respect to federal regulations regarding
6 alcohol and the illegal use of drugs, require that:

7 (i) employees comply with the standards
8 established in such regulations of the United States
9 Department of Defense, if the employees of the employer
10 are employed in an industry subject to such
11 regulations, including complying with regulations (if
12 any) that apply to employment in sensitive positions in
13 such an industry, in the case of employees of the
14 employer who are employed in such positions (as defined
15 in the regulations of the Department of Defense);

16 (ii) employees comply with the standards
17 established in such regulations of the Nuclear
18 Regulatory Commission, if the employees of the
19 employer are employed in an industry subject to such
20 regulations, including complying with regulations (if
21 any) that apply to employment in sensitive positions in
22 such an industry, in the case of employees of the
23 employer who are employed in such positions (as defined
24 in the regulations of the Nuclear Regulatory
25 Commission); and

26 (iii) employees comply with the standards

1 established in such regulations of the United States
2 Department of Transportation, if the employees of the
3 employer are employed in a transportation industry
4 subject to such regulations, including complying with
5 such regulations (if any) that apply to employment in
6 sensitive positions in such an industry, in the case of
7 employees of the employer who are employed in such
8 positions (as defined in the regulations of the United
9 States Department of Transportation).

10 (4) For purposes of this Act, a test to determine the
11 illegal use of drugs shall not be considered a medical
12 examination. Nothing in this Act shall be construed to
13 encourage, prohibit, or authorize the conducting of drug
14 testing for the illegal use of drugs by job applicants or
15 employees or making employment decisions based on such test
16 results.

17 (5) Nothing in this Act shall be construed to encourage,
18 prohibit, restrict, or authorize the otherwise lawful exercise
19 by an employer subject to the jurisdiction of the United States
20 Department of Transportation of authority to:

21 (a) test employees of such employer in, and applicants
22 for, positions involving safety-sensitive duties for the
23 illegal use of drugs and for on-duty impairment by alcohol;
24 and

25 (b) remove such persons who test positive for illegal
26 use of drugs and on-duty impairment by alcohol pursuant to

1 subparagraph (a) from safety-sensitive duties in
2 implementing paragraph (3).
3 (Source: P.A. 97-877, eff. 8-2-12.)".